

FILED
LOGGED
RECEIVED

JUN 21 2010

MURK L. HATCHER
CLERK U.S. BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA
DEPUTY

Judge: Paul B. Snyder
Chapter 11
Hearing Date: Friday, June 11, 2010
Hearing Time: 10:30 A.M.

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA

In Re

WASHINGTON MUTUAL, INC.,

Debtor.

MICHAEL WILLINGHAM and ESOPUS
CREEK VALUE LP,

Plaintiffs,

vs.

WASHINGTON MUTUAL, INC., a
Washington corporation,

Defendant.

Case No. 08-12229-MFW
District of Delaware
Chapter 11

Adversary No. 10-04136

**ORDER ON DEFENDANT'S MOTION
TO TRANSFER, STAY, OR DISMISS
THE INSTANT ACTION AND ON
PLAINTIFFS' MOTION TO REMAND,
OR IN THE ALTERNATIVE
TRANSFER FOR HEARING ON
REMAND**

This matter came before the Court for hearing on June 11, 2010, on Defendant's Motion to Transfer, Stay, or Dismiss the Instant Action, and Plaintiffs' Motion to Remand, or in the Alternative Transfer for Hearing on Remand. The Court has considered the pleadings and documents in this case, including the following moving and response papers:

1. Defendant's Motion to Transfer, Stay, or Dismiss the Instant Action;
2. Declaration of Charles Edward Smith, with attached exhibits;
3. Declaration of William C. Rava, with attached exhibits;
4. Defendant's Proposed Order;
5. Plaintiffs' Memorandum Opposing Defendant's Motion to Transfer,

ORDER ON DEFENDANT'S MOTION TO TRANSFER, STAY, OR
DISMISS AND ON PLAINTIFFS' MOTION TO REMAND, OR
TRANSFER FOR HEARING ON REMAND - 1

PDX\121991\175276\CJF\6128063.1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
US Bank Centre
1420 5th Ave., Suite 3400
Seattle, WA 98101-4010
Telephone 206.622.1711

- 1 Stay, or Dismiss the Instant Action;
- 2 6. Declaration of Colin Folawn in Support of Motion to Remand or in the
- 3 Alternative Transfer for Hearing on Remand, with attached exhibits;
- 4 7. Plaintiffs' [Proposed] Order Denying Defendant's Motion to Transfer,
- 5 Stay, or Dismiss the Instant Action;
- 6 8. Reply in Support of Washington Mutual, Inc.'s Motion to Transfer,
- 7 Stay, or Dismiss the Instant Action;
- 8 9. Brian Rosen Declaration re: Reply in Support of Washington Mutual,
- 9 Inc.'s Motion to Transfer, Stay, or Dismiss the Instant Action;
- 10 10. Plaintiffs' Motion to Remand, or in the Alternative Transfer for Hearing
- 11 on Remand;
- 12 11. [Proposed] Order Granting Plaintiffs' Motion to Remand;
- 13 12. Washington Mutual, Inc.'s Opposition to Plaintiffs' Motion to Remand
- 14 or, in the Alternative, Transfer for Hearing on Remand;
- 15 13. Declaration of William C. Rava in Support of Washington Mutual,
- 16 Inc.'s Opposition to Plaintiffs' Motion to Remand or, in the Alternative,
- 17 Transfer for Hearing on Remand;
- 18 14. Reply Memorandum in Support of Plaintiffs' Motion to Remand, or in
- 19 the Alternative, Transfer for Hearing on Remand; and
- 20 15. Supplemental Declaration of Colin Folawn in Support of Motion to
- 21 Remand, or in the Alternative, Transfer for Hearing on Remand;

22 Based on the submissions of the parties, the court records on file, and the argument of
23 counsel, the Court hereby ORDERS as follows:


24 Pursuant to Bankruptcy Rule 7052, the Court incorporates by reference its oral ruling
25 that issued on June 17, 2010. This Court orders that adversary proceeding 10-04136 is
26 transferred to United States Bankruptcy Court for the District of Delaware and orders that the

ORDER ON DEFENDANT'S MOTION TO TRANSFER, STAY, OR
DISMISS AND ON PLAINTIFFS' MOTION TO REMAND, OR
TRANSFER FOR HEARING ON REMAND - 2
PDX/121991/175276/CJF/6128063.1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
US Bank Centre
1420 5th Ave., Suite 3400
Seattle, WA 98101-4010
Telephone 206.822.1711

1 issue of whether to remand is preserved for Judge Walrath's determination. The Clerk of this
2 Court is ordered to transmit to the Clerk of the United States Bankruptcy Court for the
3 District of Delaware a certified copy of this order and all of the pleadings and papers on file
4 in the Clerk's office relating to this proceeding.

5 Dated this 21st day of June, 2010.

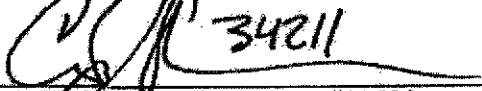
6
7 
8 The Honorable Paul B. Snyder
9 United States Bankruptcy Court Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ORDER ON DEFENDANT'S MOTION TO TRANSFER, STAY, OR
DISMISS AND ON PLAINTIFFS' MOTION TO REMAND, OR
TRANSFER FOR HEARING ON REMAND - 3
PDX\121991\175276\CJF\6128063.1

SCHWABE, WILLIAMSON & WYATT, P.C.
Attorneys at Law
US Bank Centre
1420 5th Ave., Suite 3400
Seattle, WA 98101-4010
Telephone 206.622.1711

1 *Presented by:*

2 SCHWABE, WILLIAMSON & WYATT, P.C.

3
4 By: 

5 Bert W. Markovich, WSBA #13580
6 bmarkovich@schwabe.com
7 Colin Folawn, WSBA #34211
8 cfolawn@schwabe.com
9 1420 Fifth Avenue, Suite 3400
10 Seattle, WA 98101
11 Telephone: 206-622-1711
12 Facsimile: 206-292-0460
13 *Attorneys for Plaintiffs Michael Willingham and*
14 *Esopus Creek Value LP*

15 *Also presented by:*

16 PERKINS COIE LLP

17 By: /s/ William C. Rava

18 John S. Kaplan, WSBA #23788
19 jkaplan@perkinscoie.com
20 William C. Rava, WSBA #29948
21 wrava@perkinscoie.com
22 1201 Third Avenue, Suite 4800
23 Seattle, WA 98101-3099
24 Telephone: 206-359-8000
25 Facsimile: 206-359-9000
26 *Attorneys for Defendant Washington Mutual, Inc.*